NOT FOR PUBLICATION

(Doc. No. 94)

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY CAMDEN VICINAGE

K & G MEN'S COMPANY, INC.,

Plaintiff, : Civil No. 06-5768 (RBK-AMD)

v. : **ORDER**

LOUDMILA KIBALKO, and L & N INDUSTRY, INC.,

Defendants/Third-Party Plaintiffs,

v.

RITE TECH INDUSTRIAL CO. LTD, EUNSUNG ELECTRIC CO., LTD.,

Third-Party Defendants.

THIS MATTER having coming before the Court upon a motion to strike the expert report of Terrence L. DuVall, P.E. and for summary judgment by Third-Party Defendant Eunsung Electric Co., LTD ("Eunsung"); and for the reasons expressed at a hearing held on June 3, 2010;

IT IS HEREBY ORDERED that Third-Party Plaintiffs Loudmila Kibalko and L & N Industry, Inc. may submit a supplemental expert report by June 10, 2010; and

IT IS FURTHER ORDERED that in the supplemental report, Mr. DuVall may express the opinion that use of an "SJ" cord on an iron violates Underwriters Laboratories'("UL") standards because its not designed to carry enough electrical load; and that therefore use of that

cord led to the breakdown of the iron's insulation (the so-called embrittlement); and that the embrittlement led to a short-circuit or an override of the temperature control switch in the iron; and that therefore the iron exceeded the UL standard of 200 degrees Celsius; and that therefore the iron caused the fire; and

IT IS FURTHER ORDERED that the supplemental report must demonstrate a reliable methodology supporting the conclusion that an "SJ" cord is never approved for use in a commercial iron like this (and the reasons it is not); and it must demonstrate a reliable methodology supporting the conclusion that use of an "SJ" cord led to the breakdown of the insulation; and it must demonstrate a reliable methodology to support this conclusion despite the fact that Mr. DuVall could not duplicate the alleged fire-causing defect with an iron exemplar possessing the same kind of embrittlement and breakdown; and it must demonstrate a reliable methodology supporting the conclusion that the breakdown of the insulation caused a short circuit or temperature control override; and it must demonstrate a reliable methodology supporting the conclusion that the iron therefore exceeded 200 degrees Celsius; and

IT IS FURTHER ORDERED that Eunsung shall be entitled to submit a responsive brief by June 17, 2010; and

IT IS FURTHER ORDERED that if Third-Party Plaintiff does not submit such a supplemental expert report or if the report submitted does not demonstrate a reliable methodology, the Court will grant Eunsung's motion to strike Mr. DuVall's expert report and for summary judgment.

Dated: 6-9-2010 /s/ Robert B. Kugler
ROBERT B. KUGLER
United States District Judge